

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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TO: Commissioners and Alternates

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SUBJECT: Briefing on the Redwood City Saltworks Project
(For Commission consideration on March 5, 2009)

Staff Report

Cargill's Redwood City Industrial Plant Site, also known as the Redwood City Saltworks site, has been used for salt production since 1901 and is now being considered for development by a joint venture that includes Cargill Salt and real estate developers DMB Associates. The 1,400-acre site, located in the City of Redwood City, San Mateo County, is approximately two square miles – roughly the same size as the presidio in San Francisco. DMB Associates is considering a mix of uses, including parks, housing, retail, commercial space, recreation and habitat restoration. The Saltworks team has stated publicly that the project would achieve a "50/50 balanced approach," allocating 50 percent of the Saltworks site for wetlands restoration, recreation and open space uses, and 50 percent of the site for a mix of housing and community uses.

A briefing on this topic has been scheduled for various reasons, including the large scale of the development proposal, the type of policy issues that the proposal raises and the fact that development of the site for uses other than salt production raises controversy. The public will be given an opportunity to comment at the briefing and the Commission may provide further policy guidance on this issue.



Making San Francisco Bay Better

The Site. The Saltworks site is bounded on the north by Pacific Shores office park, Westpoint Marina and Westpoint Slough. Across Westpoint Slough lies Greco Island, part of the Don Edwards San Francisco Bay National Wildlife Refuge. The Saltworks site is bounded on the east by Flood Slough. A park and light industry lie across Flood Slough. Immediately south of the site are industrial uses and mobile-home parks. To the west, the Saltworks site is bounded by Seaport Boulevard, a Union Pacific Railroad spur serving the Port of Redwood City, and mixed industrial and commercial uses. Seaport Boulevard, which links with Highway 101 to the south, is a main travel route for the Port of Redwood City, Seaport Center business park, Pacific Shores office park and a regional supplier of concrete and gravel-related construction materials.

Salt Pond Ownership. Currently, Cargill retains salt-making capacity on approximately 12,400 acres in the South Bay. The majority of Cargill's operations occur on salt ponds that are publicly owned by the U.S. Fish and Wildlife Service as part of Don Edwards San Francisco Bay National Wildlife Refuge. Cargill retains perpetual salt making rights on these ponds. The only salt ponds remaining in private ownership are the Redwood City Plant Site (Saltworks site) and the Newark Plant Site, located on the other side of the South Bay. Combined, the two tracts comprise approximately 4,400 acres.

Between 1901 and 1905, the Saltworks site was owned by Redwood City Saltworks. The property was sold to the Stauffer Chemical Company of San Francisco in 1905 and later to the Leslie Salt Company in 1941. Cargill purchased the Leslie Salt Company, including the Saltworks site, in 1978. At its peak, the Saltworks site, which includes ponds, crystallizer beds, building sites and levees, produced and shipped 350,000 tons of salt annually.

A shift in market demand and an ability to produce salt more efficiently has resulted in a reduction in the amount of land needed to produce salt in the San Francisco Bay Area. As a result, since the 1970s, over 36,000 acres of salt ponds have been transferred to public ownership to be restored or managed as a variety of wetland habitats. Most recently, 16,500 acres of salt ponds and adjacent tidal habitats were purchased in 2003 by the public for \$100 million, an acquisition made possible through the efforts of Senator Dianne Feinstein and a consortium of state and federal government agencies, foundations and private organizations. The Saltworks site was originally included in the 2003 proposed sale to the state and federal governments, but the sale price was prohibitive due to the development potential of the site. Therefore, the Saltworks site was removed from the negotiation to keep the overall cost of the acquisition affordable.

Current Local Planning for the Property. Cargill and DMB Associates have engaged in a community outreach process over the past two years in an effort to plan for the Redwood City Saltworks site. The local planning process has included mail surveys, neighborhood meetings and presentations, community workshops and forums, individual presentations, Web site comments and email comments. According to the developer, more than 5,000 residents have offered their suggestions about future uses at the site. DMB Associates will provide additional information about its planning process at the March 5, 2009 briefing.

2008 Ballot Initiatives. In 2008, two initiatives regarding the future development of the Saltworks site were placed on the local ballot. Both ballot measures failed in the November 2008 election.

- Measure W was placed on the ballot by a local citizens group and Save the Bay. This measure would have required that two-thirds of Redwood City voters in a citywide election approve legislative acts by the City Council permitting any use of specifically designated lands for other than agriculture, public parks, restored wetlands, or certain activities in San Francisco Bay. Measure W would have applied to various properties throughout Redwood City.

- Measure V was placed on the ballot by the City Council of Redwood City. This measure would have required that a majority of Redwood City voters, at a general municipal or statewide election, approve any legislative action by the City Council that permits or approves development of the Cargill Lands. Measure V would have applied only to the 1,433-acre Redwood City Saltworks site.

Redwood City General Plan. The City of Redwood City's current General Plan (1990) identifies two land use designations – Urban Reserve and Open Space – for the Saltworks site. The current zoning for the site is Tidal Plain and salt harvesting or extraction of chemicals (salt) from Bay water is a permitted use. The City is currently updating its General Plan, which may be completed by December 2009. Following the November 2008 election described above, a decision was made to proceed with the General Plan update using current designations for the Saltworks site. In other words, the City of Redwood City is no longer exploring alternative land use designations and zoning for the site. Therefore, if DMB Associates proposes a change to the General Plan to accommodate its development proposal, initiating a future general plan amendment would be the responsibility of the developer.

BCDC Jurisdictional Dispute. McAteer-Petris Act Section 66610(c) defines the Commission's "salt pond" jurisdiction as "...all areas which have been diked off from the bay and have been maintained during the three years immediately preceding...1969...for the solar evaporation of bay water in the course of salt production." In addition, Section 66610(c) defines the Commission's "salt pond" jurisdiction in such a way that the jurisdiction is retained even if an area is no longer used for salt production. Thus, once an area is defined as a salt pond, it remains within the Commission's "salt pond" jurisdiction, even if developed or opened to the Bay.

The Office of the California Attorney General has advised the Commission that all types of ponds in the salt production cycle are part of the Commission's "salt pond" jurisdiction. Therefore, according to the Office of the Attorney General, the Commission's "salt pond" jurisdiction includes evaporator ponds, pickle ponds, crystallizer ponds, bittern ponds and wash ponds. Historically, the Commission has asserted its authority over the entire salt pond system. The Commission has not, however, asserted jurisdiction over the refining and processing facilities located upland of the salt ponds because these areas were not "diked off from the bay...for the solar evaporation of bay water in the course of salt production."

Cargill disputes this conclusion and contends that only evaporator (concentrating) ponds are part of the Commission's "salt pond" jurisdiction because the solar evaporation process occurs in the evaporators and not in the pickle ponds, crystallizers, bittern ponds and wash ponds. In addition, Cargill contends that because the other types of ponds are not used for solar evaporation, are highly industrialized (and thus do not foster the habitat values associated with salt ponds) and are dry for parts of the year, they should not be included in the Commission's "salt pond" jurisdiction. Based on this premise, Cargill believes that its privately owned Newark and Redwood City Plant sites are not within the Commission's jurisdiction because these areas consist primarily of crystallizers, bittern ponds and wash ponds.

Cargill, as successor to Leslie Salt, has claimed total exemption from BCDC's jurisdiction. BCDC is holding this claim in abeyance and the parties have agreed to disagree on the legitimacy of the exemption in order to determine whether an agreement can be reached on a suitable use of the Saltworks site that is consistent with the Commission's laws and policies.

BCDC Permit Authority. The Commission's permitting authority in salt ponds derives from Section 66632(a) of the McAtter-Petris Act which states that "[a]ny person or governmental agency wishing to place fill, to extract materials, or to make any substantial change in use of any water, land or structure, within the area of the commission's jurisdiction shall secure a permit from the Commission."

Thus, the Commission has the authority to require permits for: (1) the placement of fill in salt ponds; (2) the extraction of materials associated with salt production; and (3) substantial changes in use of salt ponds, regardless of whether the use is for salt production, habitat restoration and management, or development.

BCDC's Salt Pond Policies. The Commission has had enforceable policies pertaining to salt ponds in effect since 1970 when the California Legislature amended the McAtter-Petris Act and designated the Commission as the agency responsible for maintaining and carrying out the provisions of the McAtter-Petris Act and the *San Francisco Bay Plan* (Bay Plan). The Bay Plan salt pond findings and policies have always highlighted the environmental values of the ponds, supported continued use of the ponds for salt making and called for government acquisition of any ponds no longer needed for salt production. In 2005, the Bay Plan salt pond findings and policies were amended in response to major changes in salt pond ownership and use, including the transfer of a vast acreage of salt ponds to public ownership for habitat restoration and management. The policies were also amended to address the fact that some privately owned parcels may no longer be needed for salt production purposes in the future.

The current Bay Plan findings and policies on salt ponds address different uses of salt ponds including: (1) salt ponds used for salt production; (2) salt ponds restored to tidal action or enhanced and managed for habitat; and (3) salt ponds proposed for development. Further, all projects within the Commission's "salt pond" jurisdiction should be consistent with other Bay Plan policies and the McAtter-Petris Act.

The Bay Plan salt pond policies lay out the following progression of actions that should be taken in the context of future planning for any salt pond(s) no longer needed for salt production:

- First and foremost, the continued use and maintenance of salt ponds for salt production should be encouraged.
- Second, if the owner of any salt ponds withdraws any of the ponds from their present uses, the public should make every effort to buy these lands and restore, enhance or convert these areas to subtidal or wetland habitat.
- Third, if the public does not acquire the ponds for habitat restoration purposes, and if some of the ponds are proposed for purposes other than salt production, consideration of the development should be guided by the specific criteria described in the Bay Plan.

Applicable Salt Pond Policies. The following is the full text of the two Bay Plan salt pond policies (Policy Nos. 4 and 5) specifically related to development of salt ponds.

4. If the public does not acquire for habitat restoration, enhancement or creation purposes all the salt ponds proposed for withdrawal from their use in salt production, and if some of the ponds are proposed to be developed or used for purposes other than salt production, consideration of the development should be guided by the following criteria:

- a. Recognizing the potential for salt ponds to contribute to the moderation of the Bay Area climate, the alleviation of air pollution and the open space character of the Bay, and to maximize potential habitat values, development of any of the salt ponds should provide for retaining the maximum amount of water surface area consistent with the project. Water surface area retained can include a variety of subtidal and wetland habitat types including diked ponds managed for wildlife or restoration of ponds to tidal action;
 - b. Development should provide the maximum public access to the Bay consistent with the project while avoiding significant adverse effects on wildlife; and
 - c. An appropriate means of permanent dedication of some of the retained water surface area should be required as part of any development.
5. To determine where and how much water surface area should be retained and how much public access should be provided consistent with any development proposal in a salt pond(s), a comprehensive planning process should be undertaken as part of the development project that integrates with regional and local habitat restoration and management objectives and plans, and provides opportunities for collaboration among local, state and federal agencies, landowners, other private interests, and the public. In addition, the planning process should incorporate:
- a. A baseline scientific assessment of existing and historical natural conditions and resource values of the pond(s);
 - b. Natural resource conservation objectives that will protect and enhance onsite and adjacent habitat and species diversity;
 - c. Provisions for public access and recreational opportunities appropriate to the land's use, size and existing and future habitat values; and
 - d. Flood and mosquito management measures.

Schedule for Presenting a Project to Redwood City and BCDC. To date, DMB Associates and Cargill have not submitted an application to the City of Redwood City or BCDC for a project at the Redwood City Saltworks site. The City, however, anticipates a conceptual development plan to be submitted by the developer within the next several months. Also, it is thought that DMB Associates may pursue a general plan amendment in 2010.